

SENATE BILL No. 13

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-29.5-13; IC 20-26-5-4; IC 20-50.

Synopsis: Standardized public school building plans. Requires the department of education, in cooperation with the building law compliance officer of the department of homeland security, to develop and update standard plans and specifications for the construction of a school building, an athletic facility, or a building relating to the administration of a school corporation. Requires the department to make these plans available to school corporations. Requires a school corporation to acquire standard plans before building a facility and determine whether to use the standard plans. Provides that a school corporation may use nonstandard plans only if the governing body adopts a resolution finding that standard plans do not serve the needs of the school corporation and the community and stating the reasons standard plans do not meet the needs of the school corporation and the community. Requires the county board of tax and capital projects review, the school property tax control board, and the department of local government finance to approve the use of nonstandard plans. Provides that a contract for professional services relating to construction of a facility must provide that any completed plans developed under the contract become the joint property of: (1) the person providing the professional services; (2) the school corporation; and (3) the state; and may be used by the state and any school corporation without payment to the person providing the professional services.

Effective: July 1, 2008.

Hershman

November 20, 2007, read first time and referred to Committee on Tax and Fiscal Policy.



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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 13

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-29.5-13, AS ADDED BY P.L.224-2007,
2 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2008]: Sec. 13. (a) After considering all information
4 submitted at the hearing under section 12 of this chapter by the fiscal
5 body of the political subdivision and by persons testifying at the
6 hearing, the review board may approve or disapprove a proposed
7 capital project. The review board may consider the following factors
8 when reviewing a proposed capital project:

- 9 (1) The age, condition, and adequacy of existing facilities.
10 (2) The cost per square foot of the proposed capital project.
11 (3) The relative priority the proposed capital project should have
12 among other capital projects proposed within the county.
13 (4) The estimated impact the proposed capital project would have
14 on tax rates.
15 **(5) If the project is subject to IC 20-50, whether the school**
16 **corporation is using standard plans adopted under**
17 **IC 20-50-3. Unless the review board determines that the**



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school corporation has sufficient basis to find that standard construction plans do not serve the needs of the school corporation and the community served by the school corporation, the review board may not approve the project.

~~(5)~~ **(6)** Any other factors considered pertinent by the review board.

(b) A review board may not disapprove a proposed capital project that is required by a court order.

(c) If a review board does not issue a decision with respect to a proposed capital project within ninety (90) days after the review board's receipt of the plan of the capital project under section 11 of this chapter, the capital project is considered approved by the review board as submitted.

(d) If a proposed capital project is submitted to the review boards of two (2) or more counties as required by section 10(b) of this chapter and the project is disapproved by any of the review boards, the project is considered to be disapproved.

(e) All orders of the review board under this section shall be filed with the affected political subdivision and with the department of local government finance.

SECTION 2. IC 20-26-5-4, AS AMENDED BY P.L.168-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.

(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based on the school corporation's previous year's ADM, to promote the best interests of the school corporation through:

(A) the purchase of meals, decorations, memorabilia, or awards;

(B) provision for expenses incurred in interviewing job applicants; or

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(C) developing relations with other governmental units.

(4) Subject to IC 20-50, to do the following:

(A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate improvements, as the governing body considers necessary for school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 20-47-2, IC 20-47-3, or IC 20-47-5.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for conservation measures through utility efficiency programs or under a guaranteed savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts specified under the powers authorized under subdivision (4) and this subdivision are subject solely to applicable law

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relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7, to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children who are at least five (5) years of age and less than fifteen (15) years of age that operates before or after the school day, or both, and during periods when school is not in session; if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To **do the following:**

(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and

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analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons described in this subdivision.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers are subject to and governed by laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval so that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to reimburse the employee or the member the employee's or member's reasonable lodging and meal expenses and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without

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1 regard to the distance the children live from the school. The
 2 transportation must be otherwise in accordance with applicable
 3 law.

4 (11) To provide a lunch program for a part or all of the students
 5 attending the schools of the school corporation, including the
 6 establishment of kitchens, kitchen facilities, kitchen equipment,
 7 lunch rooms, the hiring of the necessary personnel to operate the
 8 lunch program, and the purchase of material and supplies for the
 9 lunch program, charging students for the operational costs of the
 10 lunch program, fixing the price per meal or per food item. To
 11 operate the lunch program as an extracurricular activity, subject
 12 to the supervision of the governing body. To participate in a
 13 surplus commodity or lunch aid program.

14 (12) To purchase textbooks, to furnish textbooks without cost or
 15 to rent textbooks to students, to participate in a textbook aid
 16 program, all in accordance with applicable law.

17 (13) To accept students transferred from other school corporations
 18 and to transfer students to other school corporations in accordance
 19 with applicable law.

20 (14) To make budgets, to appropriate funds, and to disburse the
 21 money of the school corporation in accordance with applicable
 22 law. To borrow money against current tax collections and
 23 otherwise to borrow money, in accordance with IC 20-48-1.

24 (15) To purchase insurance or to establish and maintain a
 25 program of self-insurance relating to the liability of the school
 26 corporation or the school corporation's employees in connection
 27 with motor vehicles or property and for additional coverage to the
 28 extent permitted and in accordance with IC 34-13-3-20. To
 29 purchase additional insurance or to establish and maintain a
 30 program of self-insurance protecting the school corporation and
 31 members of the governing body, employees, contractors, or agents
 32 of the school corporation from liability, risk, accident, or loss
 33 related to school property, school contract, school or school
 34 related activity, including the purchase of insurance or the
 35 establishment and maintenance of a self-insurance program
 36 protecting persons described in this subdivision against false
 37 imprisonment, false arrest, libel, or slander for acts committed in
 38 the course of the persons' employment, protecting the school
 39 corporation for fire and extended coverage and other casualty
 40 risks to the extent of replacement cost, loss of use, and other
 41 insurable risks relating to property owned, leased, or held by the
 42 school corporation. To:

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- 1 (A) participate in a state employee health plan under
- 2 IC 5-10-8-6.6;
- 3 (B) purchase insurance; or
- 4 (C) establish and maintain a program of self-insurance;
- 5 to benefit school corporation employees, including accident,
- 6 sickness, health, or dental coverage, provided that a plan of
- 7 self-insurance must include an aggregate stop-loss provision.
- 8 (16) To make all applications, to enter into all contracts, and to
- 9 sign all documents necessary for the receipt of aid, money, or
- 10 property from the state, the federal government, or from any other
- 11 source.
- 12 (17) To defend a member of the governing body or any employee
- 13 of the school corporation in any suit arising out of the
- 14 performance of the member's or employee's duties for or
- 15 employment with the school corporation, if the governing body by
- 16 resolution determined that the action was taken in good faith. To
- 17 save any member or employee harmless from any liability, cost,
- 18 or damage in connection with the performance, including the
- 19 payment of legal fees, except where the liability, cost, or damage
- 20 is predicated on or arises out of the bad faith of the member or
- 21 employee, or is a claim or judgment based on the member's or
- 22 employee's malfeasance in office or employment.
- 23 (18) To prepare, make, enforce, amend, or repeal rules,
- 24 regulations, and procedures:
- 25 (A) for the government and management of the schools,
- 26 property, facilities, and activities of the school corporation, the
- 27 school corporation's agents, employees, and pupils and for the
- 28 operation of the governing body; and
- 29 (B) that may be designated by an appropriate title such as
- 30 "policy handbook", "bylaws", or "rules and regulations".
- 31 (19) To ratify and approve any action taken by a member of the
- 32 governing body, an officer of the governing body, or an employee
- 33 of the school corporation after the action is taken, if the action
- 34 could have been approved in advance, and in connection with the
- 35 action to pay the expense or compensation permitted under
- 36 IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and
- 37 IC 20-48-1, or any other law.
- 38 (20) To exercise any other power and make any expenditure in
- 39 carrying out the governing body's general powers and purposes
- 40 provided in this chapter or in carrying out the powers delineated
- 41 in this section which is reasonable from a business or educational
- 42 standpoint in carrying out school purposes of the school

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corporation, including the acquisition of property or the employment or contracting for services, even though the power or expenditure is not specifically set out in this chapter. The specific powers set out in this section do not limit the general grant of powers provided in this chapter except where a limitation is set out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, ~~and~~ IC 20-48-1, **and IC 20-50** by specific language or by reference to other law.

SECTION 3. IC 20-50 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 50. CONSTRUCTION OF FACILITIES

Chapter 1. Application

Sec. 1. This article does not apply to the construction of a facility if either of the following apply:

- (1) The contract for construction of the facility is entered into before January 1, 2009.
- (2) The estimated cost of the facility does not exceed the threshold amount.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Building law compliance officer" refers to the individual employed under IC 10-19-7-4.

Sec. 3. "Facility" refers to any of the following:

- (1) A school building for use by a school corporation.
- (2) An athletic facility for use by a school corporation.
- (3) A building relating to the administration of a school corporation.

Sec. 4. "Plans" refers to the plans and specifications for the construction of a facility.

Sec. 5. "Professional services" means those services that are:

- (1) within the scope of practice specified by:
 - (A) IC 25-4 for architecture;
 - (B) IC 25-31 for professional engineering; or
 - (C) IC 25-21.5 for land surveying; or
- (2) performed by any licensed architect, professional engineer, or land surveyor in connection with the person's professional employment or practice.

Sec. 6. "Standard facility" refers to a facility constructed according to standard plans.

Sec. 7. "Standard plans" refers to plans developed under

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1 IC 20-50-3.

2 Sec. 8. "Threshold amount" refers to the amount set forth in
3 IC 6-1.1-29.5-0.5(2).

4 Chapter 3. Facility Plans and Specifications

5 Sec. 1. In cooperation with the building law compliance officer,
6 the department shall:

7 (1) compile; and

8 (2) update on an ongoing basis;
9 a series of standardized plans for facilities.

10 Sec. 2. Plans for school buildings must be for school buildings of
11 different:

12 (1) sizes based upon pupil enrollment; and

13 (2) types, including grade levels.

14 Sec. 3. The plans developed under this chapter must be based on
15 designs for facilities that:

16 (1) are economical to construct and maintain;

17 (2) are energy efficient;

18 (3) provide for efficient long term maintenance;

19 (4) provide adequately for the health and safety of pupils,
20 teachers, and others who use the facilities; and

21 (5) comply with federal and state laws.

22 Sec. 4. The department may employ or enter into contracts for
23 professional services to develop plans under this chapter.

24 Sec. 5. The department may modify plans developed under this
25 chapter to fulfill the purposes of this article.

26 Sec. 6. The department shall:

27 (1) notify each school corporation of the plans developed
28 under this chapter; and

29 (2) make the plans available to a school corporation upon
30 request.

31 Sec. 7. In addition to other provisions required by law, a
32 contract for professional services relating to the construction of a
33 facility must provide that any completed plans developed under the
34 contract:

35 (1) become the joint property of:

36 (A) the person providing the professional services;

37 (B) the school corporation; and

38 (C) the state;

39 (2) must be filed as required by IC 5-16-3; and

40 (3) may be used by the state and any school corporation
41 without payment to the person providing the professional
42 services.

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Chapter 4. Construction of Standard Facilities

Sec. 1. This chapter applies only if the estimated cost of the construction of a facility is more than the threshold amount.

Sec. 2. After December 31, 2008, if a governing body determines that it is necessary to construct a facility, the governing body shall acquire standard plans from the department for a facility of the size and type that the governing body proposes to build.

Sec. 3. (a) If the governing body determines that standard plans acquired under section 2 of this chapter are adequate to meet the needs of the school corporation and will be followed in the construction of the facility, the governing body may proceed with the construction of the facility in the manner provided by law.

(b) If the estimated cost of construction of the facility is greater than the threshold amount, the project is subject to review under IC 6-1.1-29.5.

Sec. 4. The governing body may enter into contracts for professional services to evaluate plans for a facility and to assist the governing body in proceedings under this article.

Sec. 5. If a governing body determines to use standard plans for a facility, the governing body may enter into a contract for professional services to modify the standard plans, but only for the following purposes or under the following circumstances:

- (1) To adapt the facility to the particular site.
- (2) To change specifications if materials specified in the standard plan are not available.
- (3) To accommodate changes in building requirements.
- (4) If different, more cost effective products have become available.

Chapter 5. Construction of Nonstandard Facilities

Sec. 1. This chapter applies if the governing body determines that:

- (1) standard plans acquired under IC 20-50-4-2 are not adequate to meet the needs of the school corporation; and
- (2) new plans must be developed.

Sec. 2. The governing body must adopt a resolution:

- (1) finding that the use of standard plans does not serve the needs of the school corporation and the community served by the school corporation; and
- (2) stating with particularity the reasons that standard plans do not serve the needs of the school corporation and the community served by the school corporation.

Sec. 3. If a governing body adopts a resolution under section 2

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1 of this chapter, the following entities must approve the use of a
 2 nonstandard plan:
 3 (1) The county board of tax and capital projects review
 4 established in a county under IC 6-1.1-29.
 5 (2) The school property tax control board established by
 6 IC 6-1.1-19-4.1.
 7 (3) The department of local government finance.
 8 SECTION 4. [EFFECTIVE JULY 1, 2008] (a) The department of
 9 education shall develop the educational facility plans required
 10 under IC 20-50, as added by this act, before January 1, 2009.
 11 (b) This SECTION expires July 1, 2009.

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